

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA,) CASE NO.:
)
Plaintiff,) JUDGE
)
v.)
)
ALL-SET ROOFING AND) <u>COMPLAINT</u>
CONSTRUCTION, L.L.C.)
C/O STATUTORY AGENT:)
SETH THOMAS)
12521 HUFFMAN ROAD)
BOWLING GREEN, OH 43402)
)
Defendant.)

JUSTIN E. HERDMAN, United States Attorney for the Northern District of Ohio, on behalf of the United States of America (the “Plaintiff”), for its Complaint against All-Set Roofing and Construction, L.L.C. c/o Statutory Agent, Seth Thomas (the “Defendant”) says that:

1. This is a civil action brought on behalf of the United States of America and this court has jurisdiction under the provisions of 28 U.S.C. § 1334.
2. The defendant resides within the jurisdiction of this Court.

3. The Defendant owes Plaintiff the principal sum of \$44,600.00, plus interest and fees, in connection with workplace safety violations under the Occupational Safety and Health Act of 1970, 29 U.S.C. 651, as more fully set forth on the Certificate of Indebtedness attached hereto as Exhibit A.

4. Due demand has been made for payment.

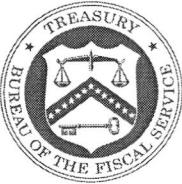
WHEREFORE, Plaintiff demands judgment against defendant as follows:

in the amount of \$44,600.00 principal, plus interest through January 3, 2018 of \$1,322.60 at the rate of 1%, Penalties of \$7,712.38 with interest accrued through January 3, 2018 at the rate of 6%, Administrative fees of \$20.00, Fiscal Service and DOJ fees of \$18,253.75, and for costs of suit and such other relief as this court may deem just.

Respectfully submitted,

JUSTIN E. HERDMAN
United States Attorney

By: /s/ Alex Rokakis
Alex Rokakis (OH: 0029078)
Assistant United States Attorney
United States Court House
801 West Superior Avenue, Suite 400
Cleveland, OH 44113
(216) 622-3673
(216) 522-4542 (facsimile)
Alex.Rokakis@usdoj.gov



DEPARTMENT OF THE TREASURY
BUREAU OF THE FISCAL SERVICE
WASHINGTON, DC 20227

ACTING ON BEHALF OF
U.S. Department of Labor, Occupational Safety and Health Administration

CERTIFICATE OF INDEBTEDNESS

Debtor Name(s) and
Address(es):

All-Set Roofing and Construction, L.L.C.
12521 Huffman Road
Bowling Green, OH 43402

I certify that the U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) records show that the debtor named above is indebted to the United States in the amount stated below

The debt arose in connection with two employee and public safety violations of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) and OSHA regulations at 29 C.F.R. 1926, as noted during an August 7, 2014 OSHA inspection of debtor's 460 Linwood, Fostoria, Ohio work-site. Please see the attached Citation and Notification of Penalty for details pertaining to each individual violation. OSHA issued the Citation on December 4, 2014. OSHA classified one of the violations as Willful and one as Repeat.

The Citation and Notification of Penalty informed the debtor that it had 15 working days from the date of issuance to either submit a written contest of the proposed \$44,660 assessment, or to request an Informal Conference to discuss and resolve the matter with OSHA. According to OSHA records, the debtor did not pursue either of these options.

The \$44,660 assessment became a Final Order of the Occupational Safety and Health Review Commission (OSHRC), on December 29, 2014. OSHA sent a demand letter to the debtor on February 17, 2015, seeking payment of the \$44,660 assessment, plus accrued interest and administrative costs. According to OSHA records, the debtor did not respond to this demand.

On May 28, 2015, OSHA filed a Petition for Summary Enforcement, with the 6th Circuit Court of Appeals (15CV3573). A copy of the Petition was served upon the debtor. OSHA pursued this action under Section 11(b) of the Occupational Safety and Health Act (29 U.S.C. 660(b)) to seek enforcement of the \$44,660 assessment, based on the Willful classification of the first workplace violation. According to OSHA standards, Willful violations are those that carry the highest severity. On July 14, 2015, the 6th Circuit entered Judgment approving the violations, abatement requirements and OSHA assessment. (Please note, the Circuit Court made a clerical error and listed the assessment amount as \$44,600, instead of the \$44,660 listed in the Citation and Notification of Penalty. Based on this error, OSHA subsequently adjusted the debt amount down to \$44,600, to align with the Circuit Court Judgment.

GOVERNMENT
EXHIBIT

A

In June 2015, OSHA referred the debt to the Department of Treasury's Bureau of Fiscal Service (formerly Financial Management Service) for administrative debt collection as required by the Debt Collection Improvement Act of 1996 (DCIA) (31 U.S.C. 3701 et seq.). Fiscal Service sent a demand letter to the debtor on June 22, 2015. The debtor did not respond to this letter.

Between July and December 2015 the debt was referred to Pioneer Credit Recovery, Inc., a private collection agency under contract with Fiscal Service for additional collection efforts. No collections resulted from these efforts.

The debtor now owes the United States the following:

Principal:	\$44,600.00
Interest (@1.0%):	\$ 1,322.60
Penalty (@6.0%):	\$ 7,712.38
Admin.: \$	20.00
Fiscal Service and DOJ fees: \$18,253.75	
(pursuant to 31 U.S.C. 3717(e) and 3711(g)(6), and 28 U.S.C. 527)	
TOTAL debt owed as of January 3, 2018: \$71,908.73	

CERTIFICATION: Pursuant to 28 USC 1746(2), I certify under penalty of perjury that the foregoing is true and correct

Executed on: 1/3/2018



Regina Crisafulli

Financial Program Specialist
U.S. Department of the Treasury
Bureau of the Fiscal Service

UNITED STATES DISTRICT COURT
for the

_____ District of _____

Plaintiff)
v.) Civil Action No.

Defendant)

)

SUMMONS IN A CIVIL ACTION

To: (*Defendant's name and address*)

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

SANDY OPACICH, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for (*name of individual and title, if any*) _____
was received by me on (*date*) _____.

- I personally served the summons on the individual at (*place*) _____
on (*date*) _____; or _____
- I left the summons at the individual's residence or usual place of abode with (*name*) _____
, a person of suitable age and discretion who resides there,
on (*date*) _____, and mailed a copy to the individual's last known address; or
- I served the summons on (*name of individual*) _____, who is
designated by law to accept service of process on behalf of (*name of organization*) _____
on (*date*) _____; or _____
- I returned the summons unexecuted because _____; or _____
- Other (*specify*): _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

UNITED STATES OF AMERICA

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS
ALL-SET ROOFING AND CONSTRUCTION, L.L.C
12521 Huffman Road
Bowling Green, OH 43402

County of Residence of First Listed Defendant Wood

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- | | |
|---|---|
| <input checked="" type="checkbox"/> 1 U.S. Government Plaintiff | <input type="checkbox"/> 3 Federal Question
(U.S. Government Not a Party) |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity
(Indicate Citizenship of Parties in Item III) |

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> I	<input type="checkbox"/> I	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	SOCIAL SECURITY
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
			IMMIGRATION	FEDERAL TAX SUITS
			<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
				<input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- | | | | | | | |
|---|---|--|---|--|--|---|
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from Another District (specify) _____ | <input type="checkbox"/> 6 Multidistrict Litigation - Transfer | <input type="checkbox"/> 8 Multidistrict Litigation - Direct File |
|---|---|--|---|--|--|---|

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

29 U.S.C. Section 651

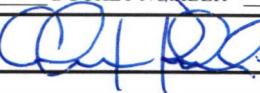
Brief description of cause:

Workplace Safety Violations (OSHA)

VI. CAUSE OF ACTION

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. **DEMAND \$** 71,908.73 CHECK YES only if demanded in complaint: **JURY DEMAND:** Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE DOCKET NUMBER

DATE 1/30/18 SIGNATURE OF ATTORNEY OF RECORD Alex Rokakis, Assistant U.S. Attorney 

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFFP _____ JUDGE _____ MAG. JUDGE _____

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

I.

Civil Categories: (Please check one category only).

1. General Civil
2. Administrative Review/Social Security
3. Habeas Corpus Death Penalty

*If under Title 28, §2255, name the SENTENCING JUDGE: _____

CASE NUMBER: _____

II.

RELATED OR REFILED CASES. See LR 3.1 which provides in pertinent part: "If an action is filed or removed to this Court and assigned to a District Judge after which it is discontinued, dismissed or remanded to a State court, and subsequently refiled, it shall be assigned to the same Judge who received the initial case assignment without regard for the place of holding court in which the case was refiled. Counsel or a party without counsel shall be responsible for bringing such cases to the attention of the Court by responding to the questions included on the Civil Cover Sheet."

This action: is RELATED to another PENDING civil case is a REFILED case was PREVIOUSLY REMANDED

If applicable, please indicate on page 1 in section VIII, the name of the Judge and case number.

III.

In accordance with Local Civil Rule 3.8, actions involving counties in the Eastern Division shall be filed at any of the divisional offices therein. Actions involving counties in the Western Division shall be filed at the Toledo office. For the purpose of determining the proper division, and for statistical reasons, the following information is requested.

ANSWER ONE PARAGRAPH ONLY. ANSWER PARAGRAPHS 1 THRU 3 IN ORDER. UPON FINDING WHICH PARAGRAPH APPLIES TO YOUR CASE, ANSWER IT AND STOP.

(1) **Resident defendant.** If the defendant resides in a county within this district, please set forth the name of such county
COUNTY: WOOD

Corporation For the purpose of answering the above, a corporation is deemed to be a resident of that county in which it has its principal place of business in that district.

(2) **Non-Resident defendant.** If no defendant is a resident of a county in this district, please set forth the county wherein the cause of action arose or the event complained of occurred.

COUNTY:

(3) **Other Cases.** If no defendant is a resident of this district, or if the defendant is a corporation not having a principle place of business within the district, and the cause of action arose or the event complained of occurred outside this district, please set forth the county of the plaintiff's residence.

COUNTY:

IV.

The Counties in the Northern District of Ohio are divided into divisions as shown below. After the county is determined in Section III, please check the appropriate division.

EASTERN DIVISION



AKRON
CLEVELAND
YOUNGSTOWN

(Counties: Carroll, Holmes, Portage, Stark, Summit, Tuscarawas and Wayne)
(Counties: Ashland, Ashtabula, Crawford, Cuyahoga, Geauga, Lake,
Lorain, Medina and Richland)
(Counties: Columbiana, Mahoning and Trumbull)

WESTERN DIVISION



TOLEDO

(Counties: Allen, Auglaize, Defiance, Erie, Fulton, Hancock, Hardin, Henry,
Huron, Lucas, Marion, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca
Van Wert, Williams, Wood and Wyandot)